

EXHIBIT 65
FILED UNDER SEAL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

WAYMO LLC,)
)
Plaintiff,)
)
vs.) Case No.:
) 3:17-cv-00939-WHA
UBER TECHNOLOGIES, INC.,)
OTTOMOTTO LLC; OTTO TRUCKING)
LLC,)
)
Defendants.)

ATTORNEYS' EYES ONLY
VIDEOTAPED DEPOSITION OF ASHEEM LINAVAL
San Francisco, California
Thursday, April 13, 2017
Volume 1

Reported by:
RACHEL FERRIER, CSR No. 6948
Job No. 2594014
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1 Q Between the time you joined 280 Systems and the 10:58:40	1 wasn't involved with day-to-day engineering but still 11:02:43
2 time that Uber acquired Otto, please tell me the names 10:58:44	2 had other involvement. 11:02:46
3 of the LiDAR projects that you are aware of at Otto, 10:58:51	3 Q He had input into the Fuji design; correct? 11:02:47
4 slash, 280 Systems? 10:58:55	4 A He had -- he had other involvement than 11:02:51
5 A There was Spider and Fuji. 10:58:56	5 day-to-day design. 11:02:54
6 Q What's Spider? 10:59:06	6 Q So, again, I'm not sure that answers my question. 11:02:55
7 A Spider was -- Spider was a -- could you be more 10:59:14	7 "Yes" or "no," did Mr. Levandowski have design 11:02:59
8 specific about that? Like -- 10:59:29	8 input into the Fuji LiDAR design? 11:03:02
9 Q You -- you mentioned Spider. 10:59:34	9 A He had input that excluded day-to-day 11:03:04
10 My question is: What is it? 10:59:36	10 engineering. 11:03:18
11 A It is a LiDAR. 10:59:37	11 Q What does that mean? 11:03:19
12 Q What kind of LiDAR is it? 10:59:40	12 A There's a lot of minutiae involved with 11:03:20
13 A It is a LiDAR that we wanted to -- it was a 10:59:41	13 engineering anything, and he would -- Anthony would -- 11:03:23
14 prototype LiDAR. 11:00:08	14 is not somebody that would have been responsible for 11:03:25
15 Q How many optical cavities were in the Spider 11:00:09	15 those day-to-day design details. 11:03:30
16 LiDAR? 11:00:13	16 Q Are you aware of a policy excluding 11:03:32
17 A I don't recall exactly. 11:00:22	17 Mr. Levandowski from having any input into certain LiDAR 11:03:35
18 Q Did it have a single lens for transmit and 11:00:23	18 decisions? 11:03:38
19 receive? 11:00:25	19 A I'm not aware of any such policy. 11:03:39
20 A No. 11:00:26	20 Q So there's no policy that you are aware of within 11:03:41
21 Q How many lenses did it have? 11:00:28	21 Uber or Otto that prohibits Mr. Levandowski's input into 11:03:45
22 A I don't -- I don't -- I don't clearly recall the 11:00:30	22 its LiDAR designs; correct? 11:03:50
23 configuration of the optical cavity, but I believe -- 11:00:46	23 A I'm not aware of any such policy. 11:03:51
24 yeah, I don't specifically recall the configuration of 11:00:53	24 Q Okay. And from your -- your experience at the 11:03:54
25 the optical cavity. 11:00:56	25 company, he has input into the LiDAR designs; correct? 11:03:56
Page 34	Page 36
1 Q Okay. So you can't tell me how many lenses the 11:00:58	1 MS. RAY: Objection; vague. 11:03:59
2 Spider LiDAR had? 11:01:01	2 THE WITNESS: He -- he has input that generally 11:04:00
3 A I could only tell you what I suspect it had. 11:01:02	3 excludes minute and day-to-day design input. 11:04:07
4 Q Okay. So you mentioned Spider and -- Spider and 11:01:11	4 BY MR. JAFFE: 11:04:17
5 Fuji. 11:01:17	5 Q So I'm a little bit confused by this phrase that 11:04:17
6 There were no other LiDAR designs at Otto; is 11:01:18	6 you are repeating. My question is -- is very specific. 11:04:20
7 that correct? 11:01:21	7 In your experience at Uber and Otto, 11:04:24
8 A Spider and Fuji were our only two internal LiDAR 11:01:21	8 Mr. Levandowski has input into the LiDAR designs, 11:04:27
9 designs. 11:01:26	9 including the Fuji project; true? 11:04:29
10 Q Okay. When did Fuji start? 11:01:26	10 MS. RAY: Objection; form. 11:04:31
11 A I don't -- I don't know of an exact date for 11:01:28	11 THE WITNESS: Well, I want to be clear about the 11:04:41
12 that. 11:01:35	12 nature of his input into -- into -- into Fuji, which is, 11:04:42
13 Q Who came up with the name Fuji? 11:01:35	13 his input takes place at a high-level and is not -- and 11:04:46
14 A That was Anthony's choice. 11:01:43	14 he's not involved with the nitty-gritty of designing the 11:04:50
15 Q So Anthony was involved in the Fuji project; 11:01:45	15 laser. 11:04:55
16 right? 11:01:51	16 BY MR. JAFFE: 11:05:03
17 A Anthony was involved in naming the project. 11:01:51	17 Q So you are not willing to answer my question 11:05:03
18 Q Was Anthony involved in the Fuji project? 11:01:54	18 "yes" -- actually, let me start over. Let me start 11:05:05
19 A At a high-level, Anthony was -- you know, at sort 11:01:59	19 over. Is that all right? 11:05:08
20 of a overview level, Anthony was involved with the Fuji 11:02:18	20 We are going to do this again the way that we did 11:05:09
21 project. 11:02:21	21 it before. 11:05:11
22 Q What does that mean? 11:02:21	22 If I were to write in a paper and submit it to 11:05:11
23 A That means, like, while -- while he wasn't -- 11:02:24	23 the Court and say, "Mr. Levandowski has input into the 11:05:14
24 wasn't really involved with, you know, day-to-day 11:02:28	24 Fuji project LiDAR design," would that be false? 11:05:18
25 engineering, you know, as -- yeah, he had -- it means he 11:02:31	25 A That wouldn't capture as much detail as I 11:05:24
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1 Otto have when it was acquired by Uber? 11:24:57	1 then we will go through and designate certain portions. 11:28:14
2 A Otto had -- Otto had Spider back then, but I 11:24:59	2 BY MR. JAFFE: 11:28:22
3 don't know -- I can't speak to whether that was supposed 11:25:10	3 Q Mr. Linaval, have you seen the document I've 11:28:22
4 to be a medium or a long-range laser. 11:25:12	4 marked as Exhibit 3? 11:28:25
5 Q Fuji didn't exist until October 2016; right? 11:25:20	5 A I've seen a document very much like this 11:28:26
6 A I don't remember the specific month. 11:25:23	6 document. 11:28:40
7 Q You don't know when Fuji started; right? 11:25:29	7 Q What is it? 11:28:40
8 A I don't recall a specific date. 11:25:31	8 A This is the -- this is an assembly diagram for a 11:28:41
9 Q So you can't tell me whether it was October 2016 11:25:34	9 laser transmitter board. 11:28:48
10 or April 2016; fair? 11:25:35	10 Q Where did the idea come from to do a laser 11:28:50
11 A I know that it was later than April 2016. 11:25:38	11 transmit board with this kind of curved left-hand side 11:28:55
12 Q Okay. So I'm going to narrow it down here so -- 11:25:41	12 here shown? 11:28:58
13 A Yeah. 11:25:46	13 A The curve is -- is -- is defined by what's called 11:28:58
14 Q -- July? 11:25:48	14 a Petzval surface, which is, if, you know, you have a 11:29:12
15 A Are you asking about Fuji? 11:25:49	15 lens and you shine light through it, it -- it -- the -- 11:29:16
16 Q Correct. 11:25:52	16 the focal surface of -- of that lens is going to -- is 11:29:21
17 A I would say that Fuji was -- was started late 11:25:54	17 going to follow that curve. 11:29:24
18 2016. 11:26:10	18 Q Have you ever seen another transmit board in a 11:29:25
19 Q Fuji was started late 2016. 11:26:10	19 similar shape to this one for LiDAR design? 11:29:30
20 When was the first prototype built? 11:26:15	20 A I've seen something sort of similar before. 11:29:32
21 A I don't know. 11:26:17	21 Q When? 11:29:36
22 Q Where did the Fuji design come from? 11:26:17	22 A When I was -- when I was -- when I was working on 11:29:37
23 A The Fuji design used aspects of the -- Fuji 11:26:21	23 lasers at Chauffeur. 11:29:49
24 design used aspects of -- aspects from the Owl laser and 11:26:45	24 Q What about putting multiple lasers on one PCB; 11:29:51
25 also in-house development. 11:26:51	25 who came up with that idea? 11:29:55
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1 Q Are you aware of any design elements that are the 11:27:01	1 A Well, I'm sure it's been done before, but like, I 11:29:57
2 same between the Fuji project and the LiDAR projects you 11:27:07	2 mean, for example, Velodyne's been doing it for, like, 11:30:04
3 worked on at Google? 11:27:12	3 you know, most of a decade now. 11:30:07
4 A Could you clarify what you mean by "design 11:27:12	4 Q Velodyne puts multiple laser diodes on a single 11:30:09
5 aspects"? 11:27:16	5 PCB? Is that your understanding? 11:30:14
6 Q Number of lasers, orientation of diodes, those 11:27:17	6 A Well, they have an arrangement of multiple 11:30:15
7 sort of things. 11:27:26	7 diodes. I don't know whether it's on a single PCB. 11:30:20
8 MS. RAY: Objection; form. 11:27:26	8 Q Have you ever looked inside a Velodyne LiDAR? 11:30:23
9 THE WITNESS: Not specifically. 11:27:27	9 A Not with detail. 11:30:30
10 BY MR. JAFFE: 11:27:28	10 Q So you are not aware whether the laser diodes in 11:30:32
11 Q So your understanding is that there's no overlap 11:27:29	11 the Velodyne designs are on a single PCB or multiple 11:30:36
12 in the design between the Fuji project and any of the 11:27:32	12 PCBs; is that fair? 11:30:42
13 LiDAR projects that you worked on at Google; true? 11:27:34	13 A I may have misspoken. 11:30:43
14 A I mean, there are certain aspects of a laser -- 11:27:38	14 Q So let me ask my question again, then. 11:30:45
15 of a LiDAR unit that are going to be the same across all 11:27:44	15 Are you aware of whether the laser diodes in the 11:30:55
16 LiDAR units. 11:27:47	16 Velodyne designs are on a single PCB or multiple PCBs? 11:31:00
17 MR. JAFFE: Okay. I'm going to mark what's 11:27:50	17 A I'm not aware. 11:31:05
18 Exhibit 3. 11:27:53	18 Q Okay. Are you aware of any other designs that 11:31:07
19 (Exhibit 3 was marked for identification 11:27:53	19 have multiple laser diodes on one PCB other than 11:31:08
20 by the Court Reporter.) 11:27:55	20 Chauffeur and this design Fuji? 11:31:17
21 BY MR. JAFFE: 11:27:55	21 MS. RAY: Objection; form. 11:31:18
22 Q And this is a document that's produced to us 11:27:55	22 THE WITNESS: I'm not aware of any other specific 11:31:20
23 as -- I realize it doesn't have a number on it, but my 11:27:58	23 instances. 11:31:43
24 understanding is the number is UBER_00000727_AEO. 11:28:02	24 BY MR. JAFFE: 11:31:43
25 MS. RAY: Let's mark this transcript as AEO, and 11:28:11	25 Q Referring to this design number, what I've marked 11:31:45
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1 as Exhibit 3, are you familiar with the placement of the 11:31:48
2 laser diodes on the transmit board? 11:31:51
3 A Sorry. Would you repeat that? 11:31:53
4 Q Referring to what we have marked as Exhibit 3, 11:32:00
5 this design, the Fuji design, are you familiar with the 11:32:03
6 placement of the laser diodes on the transmit board? 11:32:06
7 A I'm familiar with the -- the process generally 11:32:09
8 with which we decided where to place those diodes. 11:32:12
9 Q Do the diodes [REDACTED] 11:32:17
10 A I'm not sure. 11:32:21
11 Q Are you aware of any benefits or -- or lack of 11:32:22
12 benefits from [REDACTED]
[REDACTED] 11:32:29
14 A Okay. I'm going to correct myself. Actually, 11:32:31
15 we -- I believe [REDACTED] 11:32:44
16 and one potential [REDACTED] 11:32:50
17 would be the -- you might get whatever was used -- 11:32:55
18 whatever adhesive was used to attach the laser dye to 11:33:02
19 the board on the front of the diode. I -- my 11:33:07
20 understanding is it's -- is it's common practice to 11:33:12
21 [REDACTED] 11:33:16
22 Q Are you aware of any other LiDAR designs, other 11:33:17
23 than what we have described here in the Fuji design and 11:33:20
24 [REDACTED]
[REDACTED] 11:33:28
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1 A I haven't looked at any other -- any other LiDAR 11:33:30
2 in detail enough to see that. 11:33:34
3 Q So the answer is: Yes. You are not aware of any 11:33:35
4 other LiDAR designs, other than Fuji and [REDACTED]
[REDACTED] that [REDACTED] [REDACTED]
[REDACTED] like what's shown here on Exhibit 3? 11:33:47
7 A I haven't looked at any other lasers in enough 11:33:47
8 detail to see that. 11:33:49
9 Q Sir, that's not my question, and I understand 11:33:49
10 what you are saying. 11:33:51
11 But my question is: You are not aware of any 11:33:52
12 other LiDAR designs, other than the Fuji design here in 11:33:54
13 Exhibit 3 and [REDACTED], that [REDACTED] 11:33:58
14 [REDACTED] in this fashion; true? 11:34:01
15 MS. RAY: Objection; asked and answered. 11:34:03
16 THE WITNESS: No, and I haven't had the 11:34:04
17 opportunity to see that in any other laser. 11:34:15
18 BY MR. JAFFE: 11:34:19
19 Q Okay. The [REDACTED] [REDACTED]
[REDACTED] who came up with that? 11:34:22
21 A The spacing was -- was a collaboration between 11:34:25
22 several people within -- within Otto and Uber. 11:34:29
23 Q Including Mr. Levandowski? 11:34:33
24 A I don't think he was -- I don't recall him being 11:34:36
25 involved with that. 11:34:39
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1 Q Who was involved? 11:34:40
2 A I know Scott Baumkey [phonetic] was involved with 11:34:41
3 that. 11:34:45
4 Q Who else? 11:34:45
5 A Gaton. 11:34:46
6 Q Anyone else? 11:34:47
7 A I'm not sure. 11:34:49
8 Q Okay. So Mr. Baumkey and Mr. Penticote 11:34:51
9 [phonetic] were involved in the design of the [REDACTED]
[REDACTED] shown here on Exhibit 3; right? 11:34:57
11 A They were both involved with that process. 11:34:59
12 Q Do you know who came up with the idea? 11:35:01
13 A I'm not aware. 11:35:03
14 Q Do you know whether Mr. Penticote came up with 11:35:04
15 the idea and communicated it to Mr. Baumkey, or vice 11:35:07
16 versa? 11:35:10
17 A The idea of [REDACTED] 11:35:10
18 Q Yes. This [REDACTED] 11:35:12
19 A That specific [REDACTED] 11:35:14
20 Q Correct. 11:35:16
21 A I'm not -- I don't know from whom that -- I'm 11:35:17
22 not -- I'm not sure who was responsible for deciding the 11:35:25
[REDACTED] 11:35:28
24 Q But you know that Mr. Penticote and Mr. Baumkey 11:35:28
25 came up with it; correct? 11:35:32
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1 A I know that they were involved in the process of 11:35:34
2 designing [REDACTED] 11:35:35
3 Q Who else was involved, to your -- to your 11:35:36
4 knowledge? 11:35:38
5 A I don't know. 11:35:40
6 Q Okay. Similar question to what I asked before: 11:35:42
7 Are you aware of any other design than [REDACTED]
[REDACTED] and this design here in Exhibit 3 that has 11:35:49
9 this [REDACTED]? 11:35:51
10 A I don't recall if the laser at Chauffeur has 11:35:53
11 variable -- variable diode spacing. 11:36:02
12 Q Are you aware whether it does or not? 11:36:05
13 A I'm not aware of [REDACTED] [REDACTED]
[REDACTED] 11:36:10
15 Q Do you have any understanding at all whether 11:36:11
16 [REDACTED] [REDACTED]
[REDACTED] 11:36:19
18 A Sorry. Would you repeat the question? 11:36:19
19 Q Do you have any understanding at all whether 11:36:32
20 Project Chauffeur, Waymo, or Google was working on the 11:36:34
21 variable spacing of diodes? 11:36:38
22 A With anybody else? 11:36:41
23 Q Let me say it again. 11:36:43
24 Do you have any understanding at all whether 11:36:47
25 [REDACTED] 11:36:49
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1 [REDACTED] 11:36:51
2 A I know that people at Uber and Otto were working 11:36:53
3 on [REDACTED] I don't know whether [REDACTED] 11:36:59
4 [REDACTED] 11:37:03
5 Q You have no understanding about that? 11:37:04
6 A I wasn't aware of [REDACTED] 11:37:08
7 [REDACTED] 11:37:11
8 Q Okay. So, to your knowledge, no one else in the
9 world has [REDACTED]
10 other than what's shown here on Exhibit 3 in this
11 project Fuji; right?
12 MS. RAY: Objection; form.
13 THE WITNESS: I haven't really come across very
14 many LiDAR designs.
15 BY MR. JAFFE:
16 Q So yes?
17 A Would you repeat the question?
18 Q To your knowledge, no one else in the world has a
19 [REDACTED] like what's shown in
20 here for the Fuji project on Exhibit 3, other than Uber;
21 right?
22 MS. RAY: Objection; form.
23 THE WITNESS: I don't know of any other designs
24 involving a [REDACTED] in the world.
25 BY MR. JAFFE:

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1 Q Okay. Do you work with Gorilla Circuits?
2 A I haven't worked personally with Gorilla
3 Circuits.
4 Q Okay. Are you familiar -- turning back to
5 Exhibit 3 here, do you see the [REDACTED]
6 [REDACTED]?
7 A Yes, I see those.
8 Q What are those?
9 A I believe those are [REDACTED]
10 Q What do those do?
11 A They are used at some point in the manufacturing
12 and/or assembly process.
13 Q Who came up with the idea to use [REDACTED]
14 [REDACTED]?
15 A I don't know.
16 Q Are you aware of any other LiDAR designs that use
17 [REDACTED] in the same way as described here in
18 the Fuji design?
19 A I'm not aware of any others.
20 Q So, to your knowledge, no one else in the world,
21 other than the Fuji project here in Exhibit 3, has [REDACTED]
22 [REDACTED] in the same manner; right?
23 A Not that I'm aware of.
24 MS. RAY: Objection; form.
25 BY MR. JAFFE:

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1 Q Okay. The Fuji device has [REDACTED]
2 right?
3 A As designed currently, it utilizes [REDACTED]
4 [REDACTED]
5 Q And Uber labels [REDACTED] right?
6 A That's correct.
7 Q [REDACTED]
8 [REDACTED]?
9 A That is correct.
10 Q Why does [REDACTED]?
11 A My understanding is that's just a [REDACTED]
12 [REDACTED]
13 Q That's it?
14 A Yeah, and, I mean -- well, yeah, but you would
15 want them to have [REDACTED] so.
16 Q Are you aware of any other LiDAR devices that
17 have [REDACTED] other
18 than the Fuji design?
19 A No.
20 Q Okay. Do you think there's a benefit to that
21 arrangement?
22 A I believe that's why we designed it that way.
23 Q So yes?
24 A Yes.
25 Q Prior to Fuji, have you ever worked on a device

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1 that had [REDACTED]
2 [REDACTED]
3 A No.
4 Q Uber uses -- going back to the [REDACTED] that
5 we talked about before, those -- do you know whether
6 those are used as a [REDACTED]
7 [REDACTED]?
8 A I'm not sure.
9 Q How did -- actually, let me stop.
10 The -- are you aware of the receive board in the
11 Fuji design, how it's designed?
12 A Yes.
13 Q There's one receive board with 32 photodetectors
14 on it; right?
15 A That is correct.
16 Q How does Uber align the individual photo
17 detectors on the receive board with the diodes on the
18 transmit board?
19 A I'm not an optical engineer, and I'm not really
20 sure how to answer that.
21 Q So you don't know how those two get -- get
22 aligned?
23 A Not really.
24 Q Does the Fuji LiDAR work?
25 A What -- what do you mean by "work"?

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<p>1 Q I mean, can I turn it on and does it generate 2 information? 3 MS. RAY: Objection; form. 4 THE WITNESS: Are you talking about currently? 5 MR. JAFFE: Sure. 6 THE WITNESS: All right. Current- -- currently 7 a -- well, currently, there -- there exists a partial 8 Fuji prototype that if -- if turned on, could generate 9 data. 10 BY MR. JAFFE: 11 Q Have you ever put it on top of a car and tested 12 it? 13 A It's never been on top of a car. 14 Q The -- what we have marked as -- what I marked as 15 Exhibit 3, this is not a standard file from Altium; 16 right? 17 MS. RAY: Objection; form. 18 THE WITNESS: This is not -- well, this was 19 generated via Altium. 20 What do you mean by a "standard file"? 21 BY MR. JAFFE: 22 Q Like if I just turned on Altium and generated 23 dummy projects -- 24 A This would not -- 25 Q -- I would not get this file?</p> <p style="text-align: right;">Page 62</p>	<p>1 BY MR. JAFFE: 2 Q There was some matches from your computer that 3 were produced to us that corresponded to things like 4 Exhibit 3; right? 5 MS. RAY: Objection; calls for speculation. 6 THE WITNESS: I don't -- I don't believe so. 7 BY MR. JAFFE: 8 Q Well, Exhibit 3 was produced from us -- to us 9 from your counsel. 10 You understand that; right, or do you not 11 understand that? 12 A I'm not sure which subset of files was -- was 13 procured. 14 Q It's not accurate to say that all the files that 15 were produced to us from your computer by your counsel 16 were standard Altium files; right? 17 MS. RAY: Objection; form. 18 THE WITNESS: I don't know which subset of files 19 were procured from by -- 20 MR. JAFFE: Let do this. Mark this as Exhibit 4. 21 (Exhibit 4 was marked for identification 22 by the Court Reporter.) 23 BY MR. JAFFE: 24 Q Sir, Exhibit 4 is the declaration you signed in 25 this matter; correct?</p> <p style="text-align: right;">Page 64</p>
<p>1 A You would not get this file from a dummy project. 2 Q Right. 3 So this file is a specific file that you 4 generated; right? 5 A I don't know if I generated this file. It may 6 have been one of my colleagues. 7 Q Are you aware that Uber's counsel produced this 8 file to us from your computer? 9 A Yes. 10 Q Okay. You would agree, then, that all the files 11 that got produced from your computer are not standard 12 Altium or output files; right, because they included 13 this one here, Exhibit 3? 14 A Sorry. Would you repeat that? 15 Q Sure. 16 You would agree that some of the files that got 17 produced from your computer are not standard Altium 18 files; right? 19 A I would agree some of the files produced are not 20 standard files. 21 Q So there were some matches from your computer 22 that corresponded to things like Exhibit 3; right? 23 MS. RAY: Objection; form. 24 THE WITNESS: That -- sorry. Would you repeat 25 that?</p> <p style="text-align: right;">Page 63</p>	<p>1 A This appears to be my declaration. 2 Q Do you see paragraph 4 talks about you using 3 Altium? 4 A I see that. 5 Q And let's -- turning to paragraph 7, you say: I 6 understand that certain Altium, LTSpice and SolidWork 7 files from my computer were produced in this action 8 because they matched certain file names that Waymo has 9 provided for a search of Uber's files or they were MD5 10 hash matches for certain files Waymo identified. 11 Do you see that? 12 A Uh-huh. 13 Q What's the basis for that statement? 14 MS. RAY: Objection. I'm instructing him not to 15 answer on the basis of attorney-client privilege. 16 THE WITNESS: I'm going to follow my counsel's 17 advice. 18 BY MR. JAFFE: 19 Q Are you aware of what files were produced from 20 your Uber computer in this action? 21 MS. RAY: So you can tell him what you are aware 22 of, but not any other additional attorney-client 23 discussions. 24 THE WITNESS: Sorry. Would you repeat that. 25 MR. JAFFE: If you can just restate that.</p> <p style="text-align: right;">Page 65</p>

<p>1 (Record read by Reporter as follows: 2 "QUESTION: Are you aware of what files 3 were produced from your Uber computer in 4 this action?") 5 THE WITNESS: I'm aware of, generally, what 6 was -- what was produced. 7 BY MR. JAFFE: 8 Q What is the basis for that awareness? 9 MS. RAY: Objection. I instruct him not to 10 answer on the basis of attorney-client privilege. 11 MR. JAFFE: Counsel, we -- we disagree. This is 12 the source of his declaration. Are you claiming 13 privilege over the basis of his statements in his 14 declaration? 15 MS. RAY: Well, he's told you he's seen the 16 files. I'm not going to let you get into discussions 17 with him about anything further than that. 18 MR. JAFFE: I mean, he actually just testified to 19 the opposite of that. 20 Q What is your basis for your understanding -- 21 MS. RAY: Wait. Can we -- hold on a second, 22 please. Wait. Can you hold on just a second. There's 23 no pending question. 24 He says: I'm generally aware of what was 25 produced.</p> <p>Page 66</p>	<p>1 don't want it to be -- 2 Sir, have you seen the files produced from your 3 computer in this action, "yes" or "no"? 4 I don't think there's any privilege issue to talk 5 about here. 6 MS. RAY: Jordan, it might help if you and I just 7 step out of the room so you don't think I'm coaching him 8 and I'll explain to you what the issue is. 9 MR. JAFFE: Well -- 10 MS. RAY: I think you would be okay with that. 11 Do you want to do that? 12 MR. JAFFE: I want to hear his answer to the 13 question, please. 14 MS. RAY: Okay. 15 THE WITNESS: Are -- are you asking if I've seen 16 it -- if I've seen a listing of the files that were 17 procured? 18 MR. JAFFE: No. 19 Q I'm going to repeat it again because I'm not 20 trying to change the question here. 21 Sir, have you seen the files produced from your 22 computer in this action, "yes" or "no"? 23 A What does the "action" refer to? 24 Q In this litigation. 25 A And by -- by seeing the files, do you mean that</p> <p>Page 68</p>
<p>1 MR. JAFFE: And I'm asking what's the basis for 2 that statement. 3 MS. RAY: So I'm instructing him not to answer 4 because it goes into attorney-client-privileged 5 information. 6 I'll tell you, we made available -- 7 MR. JAFFE: I don't want you -- 8 MS. RAY: -- we made available to him the files. 9 MR. JAFFE: -- I don't want you to testify. I 10 want him to testify today. 11 MS. RAY: I'm not looking to testify. He's been 12 given an instruction not to answer. 13 BY MR. JAFFE: 14 Q Sir, have you seen the files produced from your 15 computer in this action? 16 A Would you mind if I -- if I took a break? 17 Q Sorry. This is -- this is a basic question I 18 need to get an answer from. 19 MS. RAY: So can I just clarify? It's because he 20 doesn't know what was -- there's certain -- I'm not 21 trying to game you here, but I think he doesn't 22 understand because he won't know the basis. 23 MR. JAFFE: I mean, I'm sorry, I understand, but 24 my question is very simple. 25 Q Have you seen -- I'll say it again because I</p> <p>Page 67</p>	<p>1 I've, like, looked -- looked at every single one and 2 looked at the contents thereof, or do you mean that I'm 3 just, like, aware of their existence? 4 Q I'm asking if you have seen them. 5 A What does it mean to "see them"? 6 Q Do you know not know what it is to see something? 7 A I -- I -- well, do you mean that I'm aware of -- 8 that I've, like, seen them in a listing or that I've 9 seen the content of them? 10 Q Sir, you put in a declaration talking about these 11 files; right? 12 A Okay. But -- 13 Q Have you seen them? 14 A I've not inspected the contents of every single 15 file. Some of them were very similar to others. 16 Q So let's be clear, then. 17 When you put in your declaration for the Court, 18 the Court shouldn't be under the misimpression you 19 actually looked at the files that you were talking 20 about; right? 21 MS. RAY: Objection; form. 22 THE WITNESS: I've looked at the file listing. 23 I've looked at the file listing enough to be able to -- 24 to understand generally what I was looking at. 25 BY MR. JAFFE:</p> <p>Page 69</p>